

CEM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

UNITED STATES OF AMERICA,

Magistrate Docket No.

07 NOV 13 AM 9:46
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
07 MJ 2638

Plaintiff,

COMPLAINT FOR VIOLATION OF:

v.

HJD
DEPUTY

Sergio GARCIA,

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

Defendant

The undersigned complainant, being duly sworn, states:

On or about **November 12, 2007** within the Southern District of California, defendant, **Sergio GARCIA**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



 SIGNATURE OF COMPLAINANT
 James Trombley
 Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 13th DAY OF NOVEMBER, 2007



 Nita L. Stormes
 UNITED STATES MAGISTRATE JUDGE

CEM

**CONTINUATION OF COMPLAINT:
Sergio GARCIA****PROBABLE CAUSE STATEMENT**

On November 12, 2007, Senior Patrol Agent A. Vela was performing Border Patrol duties at an area known as the Fire Ring. This area is on the Otay Mountain Truck Trail and is approximately 1.5 miles north of the United States/Mexico international boundary, and 1 mile east of the Otay Mesa, California Port of Entry.

Border Patrol Agent G. Tiscareno utilizing night vision scope observed a group of three individuals attempting to conceal themselves in some nearby high brush near the Fire Ring. Agent Tiscareno advised Agent Vela of the location of the three individuals, and guided him to them. Agent Vela approached the three individuals, including one later identified as the defendant **Sergio GARCIA**. Agent Vela identified himself as a U.S. Border Patrol Agent and questioned all three individuals about their immigration status. All three admitted to being citizens and nationals of Mexico illegally present in the United States. At 1:45 a.m., Agent Vela arrested the defendant and the two other undocumented aliens and had them transported to the Chula Vista Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **October 9, 2007** through **Calexico, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and agreed to answer questions without an attorney present. The defendant stated that he was a citizen and national of Mexico illegally present in the United States. The defendant further stated that he entered the United States with the intentions of going to San Diego, California to seek employment.